

an opening formed in the first plate section, the opening being adapted and configured for [a] an elongated shaft having a longitudinal axis to be inserted therethrough; wherein:

the first plate section when disposed on the shaft is configured such that the first plane is non-perpendicular to the longitudinal axis of the shaft;

an interior angle is formed between the first plate section and the second plate section;

the intermediate plate section is adapted and configured so that the forearm of a firearm may be mounted atop the intermediate plate section such that the forearm rests upon both the first plate section and the second plate section; and

the opening is configured and arranged to allow selective adjustment of the plate's position along the length of the shaft.

### **REMARKS**

The Office action dated October 17, 2002 has been carefully considered. Claims 1-38, including amended claims 1, 12, 23, 28, and 31, are currently pending in this Application and are presented for the Examiner's review and consideration. No new matter has been added by any amendment made herein.

#### **I. CLAIM OBJECTION**

Claim 1 was objected to by the Examiner due to a typographical error. Specifically, the Examiner objected to line 6 of claim 1, which read "though which" instead of "--through which--". Claim 1 has been amended to correct said error. Therefore, applicant respectfully requests that the objection to amended claim 1 be withdrawn.

#### **II. CLAIM REJECTION UNDER 35 U.S.C. § 112**

Claim 28 was rejected under 35 U.S.C. § 112, first paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner pointed out the lack of an antecedent basis for the limitation "the shaft" in claim 28. Claim 28 has been amended to remedy the lack of antecedent basis for this limitation; therefore, applicant respectfully requests that the 35 U.S.C. § 112, first paragraph rejection of amended claim 28 be withdrawn.

#### **III. CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

##### **A. U.S. Patent No. 3,584,821 to Glebe ("Glebe")**

Claims 31, 32, 33, and 38 were rejected under 35 U.S.C. § 102(b) as being anticipated by Glebe. Applicants respectfully overcome this rejection.

Glebe discloses a firearm support comprising a shaft 10 and a laterally extending firearm support member or slide 14. The support member 14 is preferably cast of aluminum or similar material and has a depression 15 running lengthwise of it. Glebe, column 2, lines 7-11. In use, the barrel of a firearm is to be supported by the firearm support surface 20.

Glebe fails to disclose the element recited by amended claim 31 which requires that the first plane be disposed at a non-perpendicular angle to the longitudinal axis of the shaft. Therefore, since Glebe does not disclose each and every element recited in the claim, Glebe fails to anticipate claim 31. Therefore, Applicant respectfully submits that the rejection to claim 31 has been overcome, and Applicant respectfully requests that the rejection to claim 31 be withdrawn. Since claims 32, 33 and 38 depend from amended claim 31, Applicant respectfully submits that these claims are also allowable.

## **V. CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

### **A. U.S. Patent No. 3,584,821 to Glebe ("Glebe")**

Claims 1, 6, 12, 17, and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glebe.

As discussed above, Glebe fails to disclose the element recited in amended claim 1 of the plane of the first end section being disposed at a non-perpendicular angle to the longitudinal axis of the shaft. Therefore, as the references fail to disclose each and every element of amended claim 1, Applicant respectfully submits that this rejection has been overcome.

Furthermore, it would not have been obvious to angle the gun rest of Glebe. There is no motivation in Glebe to have the first end section disposed at a non-perpendicular angle to the longitudinal axis of the shaft. On the contrary, Glebe clearly teaches away from such a limitation. Glebe teaches that the barrel of a gun is to be supported by a gun support surface 20 which is to be lateral or horizontal, *i.e.* perpendicular, to the shaft. Glebe, column 1, lines 49-52; column 4, lines 17-18 ("the support surface is substantially at a right angle to the shaft").

Having the first end section disposed at a non-perpendicular angle from the longitudinal axis of the shaft is a patentable improvement over the prior art. Having the first section disposed at a non-perpendicular angle to the shaft allows the forearm of a gun, when it is placed in the intermediate section of the plate, to be supported in both the horizontal and vertical plane by the first and second end sections. When the weight of the gun is placed upon the gun rest of the present invention, the first and second surfaces provide normal forces with opposing horizontal components. This provides lateral support and stability in addition to vertical support. Specification, page 3, lines 17-20. In contrast, because the support surface 20 disclosed in Glebe is disposed laterally, it is not capable of providing a normal

force with a horizontal component when the forearm of a gun is placed upon it. The gun is therefore unsupported in the horizontal plane, allowing the gun to be subject to undesirable movement in the horizontal plane.

As Glebe fails to disclose or teach each and every element of amended claim 1, Applicant respectfully requests that the rejection to amended claim 1 be withdrawn. As claim 6 depends from amended claim 1, Applicant respectfully submits that this claim is also allowable.

Glebe fails to disclose the limitation recited in amended claim 12 that the first end section be disposed at a non-perpendicular angle to the longitudinal axis of the shaft. Furthermore, Glebe fails to disclose the element recited in amended claim 12 that the barrel of the gun be supported in both the horizontal and the vertical directions by the first end section and the second end section. Therefore, Applicant respectfully submits that this rejection has been overcome, and Applicant respectfully requests that the rejection to amended claim 12 be withdrawn. As claim 17 depends from amended claim 12, Applicant respectfully submits that this claim is also allowable.

B. Glebe in view of U.S. Patent No. 5,829,731 to Dean ("Dean")

Claims 2-4, 13-15, 36, and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glebe in view of Dean. Dean discloses a flagpole holder which folds flat against a wall when not in use.

As shown above, Glebe fails to disclose each and every element of amended claims 1, 12, and 31, from which claims 2-4, 13-15, 36, and 37 depend. Furthermore, Dean also fails to disclose the limitation of having the first section of the plate being disposed at a non-perpendicular angle to the longitudinal axis of the shaft, nor is there any teaching present in Glebe or Dean to do so. Therefore, as the combination of references fails to disclose all of the elements of the claims, Applicant respectfully submits that the rejection to claims 2-4, 13-15, 36, and 37 is overcome.

C. Glebe in view of Dean and U.S. Patent No. 4,760,624 to Fish ("Fish")

Claims 5 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glebe in view of Dean and further in view of Fish. Fish discloses a closing or holding device having a zig-zag shaped access slit.

As shown above, Glebe fails to disclose each and every element of amended claims 1 and 12, from which claims 5 and 16 depend, respectively. Furthermore, Fish also fails to disclose the limitation of having the first section of the plate being disposed at a non-perpendicular angle to the longitudinal axis of the shaft, nor is there any teaching present in Glebe or Fish to do so. Therefore, as the combination of references fails to disclose all of the elements of the claims, Applicant respectfully submits that the rejection to claims 5 and 16 is overcome.

D. Glebe in view of U.S. Patent No. 5,811,720 to Quinnell ("Quinnell")

Claims 7, 8, 18, and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glebe in view of Quinnell. Quinnell discloses a shooting rest with a recoil reduction system. The recoil energy-transferring strap is secured to a loop on the shooting rest which absorbs recoil energy from the gun when fired.

As shown above, Glebe fails to disclose each and every element of amended claims 1 and 12, from which claims 7, 8, 18, and 19 depend. Furthermore, Quinnell also fails to disclose the limitation of having the first section of the plate being disposed at a non-perpendicular angle to the longitudinal axis of the shaft, nor is there any teaching present in Glebe or Quinnell to do so.

Furthermore, Quinnell does not disclose the retaining device of the present invention. Page 7, lines 9-13, of the specification make clear that the retaining device of the present invention is meant to attach the gun rest to the shaft, and not the gun, as disclosed in Quinnell. Therefore, Quinnell does not disclose this element of claims 7, 8, 18, and 19. As the combination of references fails to disclose all of the elements of the claims, Applicant respectfully submits that the rejection to claims 7, 8, 18, and 19 is overcome.

E. Glebe in view of U.S. Patent No. 6,276,087 to Singletary ("Singletary")

Claims 9-11 and 20-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glebe in view of Singletary. Singletary discloses a support with a clamping device that allows the device to be secured to a surface.

As shown above, Glebe fails to disclose each and every element of amended claims 1 and 12, from which claims 9-11 and 20-22 depend. Furthermore, Singletary also fails to disclose the limitation of having the first section of the plate being disposed at a non-perpendicular angle to the longitudinal axis of the shaft, nor is there any teaching present in Glebe or Singletary to do so. Therefore, as the combination of references fails to disclose all of the elements of the claims, Applicant respectfully submits that the rejection to claims 9-11 and 20-22 is overcome.

F. Glebe in view of U.S. Patent No. 3,391,889 to Stewart, Jr. ("Stewart")

Claims 23, 28, and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glebe in view of Stewart. Stewart discloses yarn package holders that are used with textile creels.

Glebe fails to disclose each and every element of amended claim 23, from which claims 9-11 and 20-22 depend. Specifically, Glebe fails to disclose the limitation of having the plane of the first end section disposed at a non-perpendicular angle from the longitudinal axis of the shaft. Furthermore, Singletary also fails to disclose this limitation,

nor is there any teaching present in Glebe or Singletary to do so. Therefore, as the combination of references fails to disclose all of the elements of the claim, Applicant respectfully submits that the rejection to claim 23 is overcome. As claim 28 depends from claim 23, Applicant respectfully submits that the rejection to this claim is also overcome.

As shown above, Glebe fails to disclose each and every element of amended claim 31, from which claim 34 depends. Furthermore, Singletary also fails to disclose the limitation of having the first section of the plate being disposed at a non-perpendicular angle to the longitudinal axis of the shaft, nor is there any teaching present in Glebe or Singletary to do so. Therefore, as the combination of references fails to disclose all of the elements of the claim, Applicant respectfully submits that the rejection to claim 34 is overcome.

G. Glebe in view of Stewart and Dean

Claims 24-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glebe in view of Stewart and further in view of Dean.

As shown above, Glebe and Dean, whether by themselves or in combination with each other, fail to disclose each and every element of amended claims 23, from which claims 24-26 depend. Therefore, as the combination of references fails to disclose all of the elements of the claims, Applicant respectfully submits that the rejection to claims 24-26 is overcome.

H. Glebe in view of Stewart, Dean, and Fish

Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Glebe in view of Stewart and Dean, and further in view of Fish.

As shown above, Glebe, Stewart, and Dean, whether by themselves or in combination with each other, fail to disclose each and every element of amended claims 23, from which claims 27 depend. Therefore, as the combination of references fails to disclose all of the elements of the claims, Applicant respectfully submits that the rejection to claims 24-26 is overcome.

I. Glebe in view of Stewart and Quinnell

Claims 29-30 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Glebe in view of Stewart and further in view of Quinnell.

As shown above, Glebe, Stewart, and Quinnell, whether by themselves or in combination with each other, fail to disclose each and every element of amended claims 23, from which claims 29-30 depend. Therefore, as the combination of references fails to disclose all of the elements of the claims, Applicant respectfully submits that the rejection to claims 29-30 is overcome.

## VI. CONCLUSION

Applicant respectfully submits that all pending claims comply with the requirements of 35 U.S.C. § 112, that all pending claims are allowable over the cited references, and that no new matter has been added by any amendment made herein. Accordingly, this application is now in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree that all claims are allowable, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and to accelerate the allowance of the above-identified application.

Attached to this amendment is a Petition for Extension of Time according to \_\_\_\_\_, along with the accompanying fee. No other fees are believed due with the submission of this response. Should any be due, please charge any such fees for this submission to Pennie & Edmonds LLP deposit account no. 16-1150.

Date \_\_\_\_\_

Respectfully submitted,

*Brian M. Rothery* 35,340  
*by David D. Lee* 51,929  
\_\_\_\_\_  
Brian M. Rothery (Reg. No. 35,340)  
David D. Lee (Reg. No. 51,929)

By: PENNIE & EDMONDS LLP  
1155 Avenue of the Americas  
New York, New York 10036-2711  
(212) 790-9090

Enclosures